

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

YELLOW CORPORATION, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 23-11069 (CTG)

(Jointly Administered)

**Objection Deadline: September 8, 2023 at 4:00 p.m. (ET)**

**Hearing Date: September 15, 2023 at 11:30 a.m. (ET)**

Ref. No. 22

**PACCAR FINANCIAL CORP.'S RESERVATION OF RIGHTS AND RESPONSE TO  
DEBTORS' MOTION FOR APPROVAL OF PROPOSED BIDDING PROCEDURES**  
**[DKT. NO. 22]**

PACCAR Financial Corp. ("PACCAR"), a current lessor of Peterbilt trucks to the above-captioned Debtors, hereby submits its Reservation of Rights and Response to the above-captioned Debtors' motion seeking, *inter alia*, approval of proposed bidding procedures in connection with a proposed sale(s) of substantially all of the Debtors' assets (the "Bid Procedures Motion") [Dkt. No. 22]. In support thereof, PACCAR states as follows:

1. On August 6, 2023 (the "Petition Date"), Yellow Corporation and its debtor affiliates each filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.
2. The Debtors, while remaining in possession of their assets, are in full-scale wind down and liquidation mode in these bankruptcy cases.
3. The Bid Procedures Motion was filed on August 7, 2023. [Dkt. No. 22.]<sup>2</sup>
4. On or about June 29, 2018, PACCAR as lessor and YRC Enterprise Services, Inc. as

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://dm.epiq11.com/YellowCorporation>. The location of Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is: 10990 Roe Avenue, Overland Park, Kansas 66211.

<sup>2</sup> By Notice filed on August 30, 2023 [Dkt. No. 378], the Debtors scheduled the Bid Procedures Motion for hearing on September 15, 2023, at 11:30 a.m., with a response deadline of September 8, 2023.

lessee entered into a Master Equipment Lease Agreement and related agreements (collectively, the “Master Lease”) with respect to the leasing of PACCAR’s Peterbilt trucks.<sup>3</sup>

5. Thereafter, as provided in the Master Lease terms and conditions, PACCAR as lessor and debtor lessees USF Holland LLC, New Penn Motor Express LLC, and USF Reddaway Inc. entered into multiple leases and related schedules (collectively, as may have been amended or extended, the “Lease Schedules”). Pursuant to the Master Lease and related Lease Schedules, PACCAR leased over 320 trucks (the “Trucks”) to the Debtors.<sup>4</sup>

6. PACCAR, as owner, retains the titles for all of their leased Trucks.<sup>5</sup>

7. The respective Lease Schedules apply to specified Trucks (with identifying information, such as VIN numbers) and have varying commencement and maturity dates, as well as varying monthly payment due dates.

8. As of the Petition Date, on an aggregate per month basis, the lessee Debtors collectively were obligated to pay PACCAR approximately \$627,000 in lease payments under all Lease Schedules (whether matured or not).

9. The Debtors currently are in default of their monthly payment obligations under the Master Lease and Lease Schedules. As of the Petition Date, and subject to further reconciliation, the outstanding and overdue aggregate balance owed to PACCAR was at least \$174,000 (exclusive of any late charges, interest, liquidated damages, and attorneys’ fees).<sup>6</sup>

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<sup>3</sup> YRC Worldwide Inc. executed guaranty documents in connection with the Master Lease.

<sup>4</sup> USF Holland LLC (22 lease accounts); New Penn Motor Express LLC (16 lease accounts); and USF Reddaway Inc. (11 lease accounts). PACCAR has been informed its Trucks currently are sitting parked at over 80 Debtor-controlled facilities located throughout the United States.

<sup>5</sup> In the weeks leading up to the Petition Date, the Debtors purchased several leased Trucks pursuant to the terms of the Master Lease and those applicable Lease Schedules. The Debtors also agreed with PACCAR to extend certain Lease Schedules so that those Lease Schedules did not mature as originally provided.

<sup>6</sup> Because the Debtors have not made any lease payments since the Petition Date, the open and overdue balance has only increased on a postpetition basis.

10. Thirteen (13) of the Lease Schedules have matured either shortly before or since the Petition Date, through and including September 7, 2023. An aggregate eighty-eight (88) Trucks correspond to those Lease Schedules. Additional Lease Schedules are set to mature in the coming weeks and months.

11. The Trucks belong to and are owned by PACCAR. Upon maturity or expiration of a Lease Schedule, the lessee Debtor can either purchase the subject Truck(s) off that Lease Schedule (at the agreed upon contract purchase price for each Truck) or return the subject Trucks to PACCAR in accordance with specified return conditions.

### **DEBTORS' PROPOSED BIDDING PROCEDURES**

12. By the Bid Procedures Motion, the Debtors, *inter alia*, seek entry of an order approving proposed bidding procedures. Those proposed procedures are described in the motion itself and are attached as an exhibit to the proposed bidding procedures order.<sup>7</sup>

13. The following language contained in the proposed bidding procedures purports to define and describe the “Assets” up for sale by the Debtors. The first bullet point states:

any owned or leased vehicles, tractors, trucks, trailers, tank trailer and other trailers, or similar vehicles and trailers, railroad cars, locomotives, stacktrains and other rolling stock and accessories used on such railroad cars, locomotives or other rolling stock (including superstructures and racks) (the “Rolling Stock”) (emphasis added);

(See Dkt. No. 378, pages 1 and 2 of proposed bidding procedures (pdf pages 68 and 69 of 95)).

14. While lead-in language in the proposed bidding procedures states that proposed transactions “may contemplate the sale of one or more of the following assets (or assumption and assignment of leases, as applicable)”, that language and the above quoted language should be clarified and harmonized (and any entered bid procedures order should clearly provide) to make it crystal clear leased Trucks are not included as part of the assets the Debtors can sell to

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<sup>7</sup> See **Exhibit 1** to the proposed bidding procedures order.

prospective buyers.

15. For the avoidance of doubt, and absent Debtors' purchase of Trucks or a separate and further agreement reached with PACCAR: (i) the Trucks are not assets available for sale by Debtors in the proposed sale process; and (ii) the Master Lease and related unmatured Lease Schedules are subject to potential assumption and assignment assuming compliance with all Bankruptcy Code requirements, including the requirements set forth in section 365 of the Bankruptcy Code.

16. PACCAR does not waive and expressly reserves all rights, claims, remedies, defenses, and interests available under the Master Lease, related Lease Schedules, and otherwise under applicable law.

WHEREFORE, PACCAR respectfully requests that any proposed bidding procedures order be modified so it is consistent with the above.

Dated: September 7, 2023

**ASHBY & GEDDES, P.A.**

/s/ Michael D. DeBaecke

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